

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DIRECTV, INC.,

Plaintiff,

v.

DECISION AND ORDER
03-CV-897S

ROBERT MEINHART and
SIGMUND GOLEMBESKI,

Defendants.

1. On November 26, 2003, Plaintiff filed its Complaint in this action alleging that Defendants Meinhart and Golembeski purchased and used Pirate Access Devices that are designed to permit the viewing of Plaintiff's television programming without authorization by or payment to Plaintiff. Plaintiff alleges that by doing so, each defendant violated the Federal Communications Act of 1934, as amended, 47 U.S.C. § 605, and the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521.

2. Neither defendant filed an Answer to the Complaint or otherwise appeared to defend this action. Consequently, Plaintiff filed a Request for Clerk's Entry of Default as to Defendant Golembeski on March 11, 2004, and as to Defendant Meinhart on March 16, 2004. The Clerk of the Court granted Plaintiff's requests and entered default against each defendant on March 18, 2004.

3. Thereafter, on March 24, 2004, Plaintiff filed Motions for Default Judgment against both defendants. On May 27, 2004, this Court issued a Show Cause Order directing the defendants to appear and show cause why Plaintiff's motions should not be granted. Neither defendant appeared on June 15, 2004, the date of the show cause hearing. This Court took the motions under advisement at that time.

4. On February 15, 2005, this Court filed a Decision and Order denying Plaintiff's Motions for Default Judgment. Therein, this Court found that the allegations in the Complaint failed to establish a violation of 47 U.S.C. § 605(e)(4), which was the only cause of action upon which Plaintiff moved for Default Judgment. Plaintiff appealed.

5. On December 9, 2005, the Second Circuit vacated this Court's judgment and remanded this case for a determination of damages and the entry of default judgment. DirecTV, Inc. v. Meinhardt, No. 05-887-cv, 2005 WL 3370463 (2d Cir. Dec. 9, 2005) (unpublished). The Second Circuit's mandate was filed on the docket on January 19, 2006.

6. On January 20, 2006, Plaintiff filed new Motions for Default Judgment against each defendant. Therein, Plaintiff requests judgment against each defendant in the amount of \$10,000 for statutory damages and \$850 for attorneys' fees, for a total default judgment of \$10,850 against each defendant. Forty-seven U.S.C. § 605(e)(3)(C)(i)(II) provides damages in the amount of no less than \$10,000 nor more than \$100,000, "as the court considers just," for each violation of 47 U.S.C. § 605(e)(4).

7. Pursuant to the Second Circuit's mandate, entry of default judgment against each defendant is required. Further, this Court finds that an award of \$10,000 in statutory damages and \$850 in attorneys' fees against each defendant is just and appropriate in this case. Plaintiff's Motions for Default Judgment are therefore granted.

IT HEREBY IS ORDERED, that Plaintiff's Motion for Default Judgment as to Defendant Sigmund Golembeski (Docket No. 20) is GRANTED.

FURTHER, that the Clerk of the Court is directed to enter default judgment on Plaintiff's second cause of action against Defendant Sigmund Golembeski in the amount

of \$10,850. Interest on this judgment shall accrue from the date of entry of this Decision and Order in accordance with 28 U.S.C. § 1961.

FURTHER, that the Clerk of the Court is directed to send a copy of this Decision and Order to Defendant Sigmund Golembeski at the following address:

2242 Center Court S. Apt. 4
Grand Island, NY 14072

FURTHER, that Plaintiff's Motion for Default Judgment as to Defendant Robert Meinhart (Docket No. 21) is GRANTED.

FURTHER, that the Clerk of the Court is directed to enter default judgment on Plaintiff's second cause of action against Defendant Robert Meinhart in the amount of \$10,850. Interest on this judgment shall accrue from the date of entry of this Decision and Order in accordance with 28 U.S.C. § 1961.

FURTHER, that the Clerk of the Court is directed to send a copy of this Decision and Order to Defendant Robert Meinhart at the following address:

3604 Curtiss Ave.
Ransomville, NY 14131

FURTHER, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: February 24, 2006
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge